

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SUNSHINE SPURGEON,

Plaintiff,

v.

OLYMPIC PANEL PRODUCTS LLC,  
a Washington State limited liability  
company; THE INTERNATIONAL  
ASSOCIATION OF MACHINISTS,  
WOODWORKERS LOCAL LODGE  
W-38,

Defendants.

CASE NO. C07-5436BHS

ORDER DENYING WITHOUT  
PREJUDICE DEFENDANT  
OLYMPIC PANEL  
PRODUCTS'S MOTION TO  
COMPEL RE PLAINTIFF'S  
INITIAL DISCLOSURES

This matter comes before the Court on Defendant Olympic Panel Products's Motion to Compel Re Plaintiff's Initial Disclosures (Dkt. 15). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion without prejudice for the reasons stated herein.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

On December 19, 2007, Plaintiff filed a joint status report evidencing several discovery disputes between Plaintiff and Defendants. Dkt. 7. On the same day, the International Association of Machinists, Woodworkers Local Lodge W-38 ("Local Lodge") made several discovery-related requests by motion. Dkt. 9. The Court ultimately denied the requests but encouraged the parties to obey both the letter and spirit of the

1 Federal Rules of Civil Procedure and to work together to manage discovery in the most  
2 efficient manner practical. Dkt. 13.

3 Olympic Panel Products (“Olympic”) now moves to compel Plaintiff to  
4 supplement her initial disclosures to include contact information and identify the subject  
5 matter for all individuals likely to have discoverable information. Dkt. 15. Olympic also  
6 seeks to recover attorneys’ fees incurred in attempting to arrange a conference call with  
7 Plaintiff’s counsel, engaging in such conference call, reviewing documents, and preparing  
8 the instant motion. Dkt. 16 at 3.

## 9 II. DISCUSSION

10 Under the Federal Rules of Civil Procedure, parties are required to disclose,  
11 without awaiting a discovery request, the following:

12 (i) the name and, if known, the address and telephone number of  
13 each individual likely to have discoverable information--along with the  
14 subjects of that information--that the disclosing party may use to support its  
claims or defenses, unless the use would be solely for impeachment

15 Fed. R. Civ. P. 26(a)(1)(A)(i). This initial disclosure must be based upon information  
16 reasonably available to the disclosing party at the time of the disclosure. Fed. R. Civ. P.  
17 26(a)(1)(E). A party is not excused from its initial disclosure obligation merely because  
18 the party has not yet fully investigated its case. *Id.* The disclosing party must also  
19 supplement its initial disclosures pursuant to Federal Rule of Civil Procedure 26(e)(1). If  
20 a party fails to make its initial disclosures, any party may move to compel such  
21 disclosure. Fed. R. Civ. P. 37(a)(3)(A). The motion must be accompanied by a  
22 “certification that the movant has in good faith conferred or attempted to confer with the  
23 person or party failing to make disclosure or discovery in an effort to obtain it without  
24 court action.” Fed. R. Civ. P. 37(a)(1). A good faith effort to confer requires a  
25 face-to-face meeting or a telephone conference. Local Rule CR 37(a)(2)(A). The parties  
26 conferred by telephone on December 21, 2007, regarding this discovery dispute. Dkt. 16  
27 at 2.

1 In this case, Plaintiff's initial disclosures did not include the contact information  
2 for individuals identified as likely to have discoverable information. *See* Dkt. 16 at 6-8. In  
3 addition, Plaintiff did not associate subjects of discoverable information with each person  
4 identified. *Id.* Apparently to remedy this omission, Plaintiff provided Olympic with a disk  
5 of documents. Dkt. 16 at 2. Olympic maintained that the initial disclosures were  
6 nevertheless insufficient. In responding to the instant motion, Plaintiff provided additional  
7 information regarding each person identified in the initial disclosures. *See* Dkt. 19 at 4-12.

8 Plaintiff cannot satisfy her initial disclosure obligation merely by furnishing a disk  
9 of 699 documents and asking Defendants to cull through the documents to locate contact  
10 information and surmise the subjects on which each person might have discoverable  
11 information. To the extent that Plaintiff knows the contact information and relevant  
12 subject matter of each person identified in her initial disclosures, she is obligated to  
13 provide such information. For this reason, the motion to compel was warranted but should  
14 not have become necessary. The reply does not identify the extent to which Plaintiff's  
15 disclosures remain inadequate, however, and it appears that Plaintiff's initial disclosures  
16 are now in general compliance.

17 Plaintiff is cautioned that the Court's denial of the motion should not be construed  
18 as a ruling that Plaintiff fully complied with Federal Rule of Civil Procedure 26(a)(1)  
19 initially and that any additional inadequate compliance with discovery rules may warrant  
20 Court intervention and an award of attorneys' fees.

21 The Court notes that the discovery period commenced only recently and that the  
22 discovery deadline is more than six months away. The parties are again instructed to obey  
23 both the letter and spirit of the Federal Rules of Civil Procedure and to work together to  
24 manage discovery in the most efficient manner practical.

**III. ORDER**

Therefore, it is hereby

**ORDERED** that Defendant Olympic Panel Products's Motion to Compel Re  
Plaintiff's Initial Disclosures (Dkt. 15) is **DENIED** as provided herein.

DATED this 6<sup>th</sup> day of February, 2008.



BENJAMIN H. SETTLE  
United States District Judge